IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL REVISION APPLICATION NO.198/2002

1. Smt. Nalini Vyanktesh Sabnis,
2. Kum. Anita Sabnis,
3. Kum. Suchita Sabnis,
4. Shri Rajesh Sabnis,

All residing at House No.654/1
Manaswada, Kundaim, Goa. ..... Petitioners.

Vs.

1. Smt. Manikabai Anant Kamat,
resident of Kundaim, Goa.
2. Shri Dharmanand Anant Kamat,
resident of Margao, Goa.
3. Smt. Vijaya Dharmanand Kamat,
resident of Margao, Goa.
4. Shri Shekhar Anant Kamat,
resident of United Kingdom,
5. Shri Santosh Anant Kamat,
resident of Kundaim, Goa.
6. Smt. Manisha Shripad Sukerkar,
7. Shri Shripad Jaywant Sukerkar,
both resident of Bombay,
8. Smt. Sheila Vinayanand Keni,
9. Shri Vinayanand Vassant Keni,
both resident of Cuncoliem,
Bali, respondents 1, 3 to 9
through their constituted attorney
the respondent No.2, resident of
Z-S-6, Junata Housing Society,
Aquem Alto, Margao, Goa. .... Respondents.

Mr. Valmiki Menezes, Advocate for the petitioners.

Mr. Sudin M.S. Usgaonkar, Advocate for the respondents.

CORAM : F.I. REBELLO, J.

DATE : JULY 24, 2003.

ORAL JUDGMENT:

This revision is directed against the order of the trial Court refusing to condone the delay in taking

out the application for setting aside ex-parte decree. The contention of the petitioners was that their advocate had withdrawn and they were not aware of the same and in these circumstances, the delay. The trial Court proceeded on the footing that the Advocate has not filed affidavit showing that he had withdrawn from the matter and further that there was no other material on record showing sufficient cause on behalf of the petitioners herein. To my mind, the material discloses sufficient cause and Courts, when substantive rights of the parties who, otherwise, were prosecuting the matter with due diligence, ought not to defeat them.

In the light of that, the Order dated 8.4.2002 is set aside. The application at Exhibit-1 dated 20.4.2000 is allowed, subject to the petitioners paying to the respondents costs, which are quantified at Rs.1,000/- as a condition precedent, within four weeks from today. Revision is disposed of accordingly.

F.I. REBELLO, J.

ssm.